IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE
and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 2872 of 2001

Between:
1 Gandavarapu Dasaratharmi Reddy son of Late Linga reddy
Rebala Buchireddypalem Mandal, Nellore Dist
2 Gandavarapu Linga Reddy son of Dasarathi Rami Reddy
Rebale Buchireddypalem Mandal Nellore Dist

..... PETITIONER(S)

AND

1 District Collector Nellore
Nellore Dist
2 The Deputy Executive Engineer Irrigation Dearptment Kanisiripalem
Buchireddypalem Post Nellor Dist
3 Environment Engineer , AP Pollution Control board
Regional Office, A.K.Nagar Nellore 524004
4 Katura Ramachandra Rao son of Malla Reddy
Rebala Buchireddypalem Mandal Nellore District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, or direction more particularly one in the nature of writ of Mandamus by directing respondents 1 to 3 herein to take steps for removal of the obstructions caused by the 4th respondent to the fee flow of the water in the existing drainage canal passing though 13/1 state high way culver and through the lands of 4th respondent in Rebala Village Buchireddypalam Mandal, Nellore District and father direct them to take appropriate steps to prevent such interference in future to the said canal by the 4th respondent and pass

Counsel For the Petitioner:MR.N.CHANDRADHAR RAO

Counsel For the Respondent No.1 and 2: GP FOR IRRIGATION & COMM AREA DEV.

Counsel for the respondent No.3: Mr S.V.Bhatt

The Court Made the Following ORDER:

(per The Hon'ble The Chief Justice Sri Devinder Gutpa)

This petition was filed seeking direction against respondent Nos.1 to 3 to take steps for removal of the obstructions caused by the respondent No.4 to the free flow of water in the existing drainage canal passing through 13/1 State high way culvert and through the lands of respondent No.4 in Rebala village, Buchireddypalem mandal, Nellore district and further direct them to take steps to prevent such interference in future. On 14-3-2001 rule nisi was issued and interim order was passed. But on filing of affidavit in reply it was vacated. There is a contest between the petitioner and the respondent No.4. But we take notice of the counter-affidavit of the respondent NO.1 viz., District Collector who has stated thus:

> "2....that the allegation of the petitioner that there is a drain in Rebala village is incorrect. What was existing earlier was an irrigation channel0cum-drain which was known as "Old Gudapalle branch channel" (O.G.Channel). the said channel was abandoned about 25 years ago. The O.G. branch channel used to irrigate the lands of the writ petitioners as well as the lands of the 4th respondent. After the O.G. Channel was abandoned, those lands came to be irrigated under another channel i.e., the 3rd Mile Left Bank Minor Channel" (also known as the Patur channel).
>
> 3.The writ petitioners possess acs 7.90 of T.J. land in S.No.108, 110 and 556 of Rebala village. Previously the rain water/surplus water from the lands of the petitioners used to flow through the culvert into "Old Gudapalli" branch channel running from S.No.106/1 of Rebala village all along Nellore-Mumbai road on northern side upto Survey No.197 of Rebala village where it joined the Paturu channel. After it was abandoned, pattas were issued for house sites and for agricultural purpose by the Revenue Department. After abandonment of the said Channel, the drain water/surplus water from the lands of the petitioners used to flow through the culvert into the lands of the fourth respondent (Sri Katuru Ramachandra Reddy) in S.No.120 of Rebala village as these lands are in low level. Now the 4th respondent has formed prawn culture ponds in his patta land in S.No.120 and the bunds are obstructing the free flow of surplus/drain water from the fields of the petitioners.
>
> 4. .. the Mandal Revenue Officer, Buchireddipalem has reported that the length of the channel is 1.3 km from S.No.106 to S.No.197 and the extent of the abandoned channel is acs 3.61 km out of which acs 2.52 is under use of agriculture purpose, acs 0.42 is covered by houses and the balance extent of acs

0.68 is free from encroachments. There are pucca buildings and religious institutions in the assigned lands as well as in the encroached lands. Most of the assignees and encroachers are landless poor and agricultural labourers. The Mandal Revenue Officer further reported that the encroachments under agricultural purpose can be removed according to law. In respect of pattas granted for house sites, the allottees have constructed pucca houses investing huge amount and the Mandal Revenue Officer has opined that the removal of residential and other permanent structures may create law and order problem and that the restoration of the old channel would be an expensive proposition. Hence, the Mandal Revenue Officer, Buchireddipalem and the Revenue Divisional Officer, Kavali have recommended for acquisition of acs 0.97 ½ cents of land in S.No.120 of Rebala village for the purpose of excavation of a new d4rainage channel for free flow of surplus/drain water from the lands of the writ petitioners.

In view of what has been stated above, the Collector further stated that on 2-5-2001 he has directed the Executive Engineer (Irrigation), Central Division, Nellore to initiate action to acquire ac 0.07 ½ cents of land as proposed by the Revenue Divisional Officer, Kavali through his proceedings dated 4-4-2001 to provide a new drainage channel for the petitioner's lands instead of restoring the old channel which is neither practicable nor viable. He has assured that necessary steps will be taken and drain will be provided to the petitioner's land. The petitioner did not thereafter file any further affidavit and we suppose that the petitioner must have been satisfied with the stand taken by the Collector.

By taking the stand of the District Collector on record, we dispose of the writ petition without any further direction.

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DEVINDER GUPTA, CJ

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G.ROHINI, J

16th June, 2004.

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ASSISTANT REGISTRAR

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SECTION OFFICER

To

1 District Collector Nellore
Nellore Dist

2 The Deputy Executive Engineer Irrigation Dearptment Kanisiripalem
Buchireddypalem Post Nellor Dist

3 Environment Engineer , AP Pollution Control board
Regional Office, A.K.Nagar Nellore 524004

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